

I am writing to urge you to reject the Notice of Proposed Rulemaking #02-230, which would limit the functionality of digital television sets. As currently constructed, this •broadcast flag• proposal would hamper innovation in digital televisions and other electronic equipment capable of receiving digital broadcasts.

The broadcast flag proposal before the commission was the product of the •Broadcast Protection Discussion Group,• a select group of industry insiders who brokered the deal. It would be unfortunate if the FCC were to codify this pact at the expense of consumer flexibility and choice.

While piracy is a valid concern, it is not the only issue that should be considered. Entertainment industry protections must be weighed against consumers• freedom to purchase and employ technology to enhance and utilize content. If enacted, the broadcast flag proposal would ignore these concerns and turn technological development over to an all-powerful subset of the entertainment industry.

In recent years, the entertainment industry has become acutely aware of the challenges it faces in the digital era. But these challenges do not give it the right to restrict consumers• abilities to record their favorite programs, or purchase electronic devices that allow them to record and save memorable family moments. The market is best suited to address and weigh these competing concerns and the FCC should give it time to work - particularly in a nascent industry like digital television -- before handing over consumer autonomy to the whims of entertainment industry executives.

With the Notice of Proposed Rulemaking #02-230, the entertainment industry executives hoping to save their market are actually being very short sighted. In fact, cheap access to content is what's fueling the demand for new electronic equipment, software, and services. The great improvement of Microsoft Windows XP over earlier versions is the way it manages the storage and performance of digital content. Computer equipment and chip design has strived to improve consumers• listening and viewing experience, while electronics companies have been improving their players, speakers, and television sets for generations.

Many analysts believe it is the lack of available content that has slowed the pace of broadband adoption. Regulatory disincentives, like that proposed in the Notice of Proposed Rulemaking #02-230, and a lack of facilities-based competition are major concerns. But broadband•s biggest roadblock is that the applications which create demand for faster Internet service are also the ones that are being outlawed by new copyright regulations. No application ever had greater prospects to stimulate demand for broadband than Napster, whose 72 million members used about 5 percent of the network capacity available in the United States.

If tech companies need a flourishing content industry to fuel demand for their own products, then there is no reason to believe that the market cannot address piracy concerns while enhancing the availability of content at the same time. This •broadcast flag• proposal in the Notice of Proposed Rulemaking #02-230, is not needed and should be rejected.